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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ELSTER SOLUTIONS, LLC , a Delaware
11 Limited Liability Company,

12 Plaintiff,

13 vs.

14 THE CITY OF SEATTLE, a municipal
15 corporation; SEATTLE CITY LIGHT, a publicly
16 owned utility; MUCKROCK FOUNDATION,
17 INC., a Massachusetts corporation; and PHIL
18 MOCEK, an individual,

19 Defendants.

20 NO. 2:16-cv-00771

21 **DECLARATION OF ALLEN W. ESTES,
22 III IN SUPPORT OF PLAINTIFF'S
23 MOTION FOR TEMPORARY
24 RESTRAINING ORDER AND FOR
ORDER TO SHOW CAUSE
REGARDING PRELIMINARY
INJUNCTION**

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26 I, Allen W. Estes, III, am over the age of 18, have personal knowledge of all the facts
stated herein and declare as follows:

27 1. I am a partner at Gordon & Rees, LLP and one of the attorneys representing Elster
28 Solutions, LLC ("Elster") in the above-captioned case.

29 2. I make this Declaration in support of Elster's Motion For Temporary Restraining
30 Order And For Order to Show Cause Regarding Preliminary Injunction, and to provide the
31 certification pursuant to Rule 65(b)(1)(B) of the Federal Rules of Civil Procedure.

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33 00246065-1
34 DECLARATION OF ALLEN W. ESTES, III IN
35 SUPPORT OF PLAINTIFF'S MOTION FOR
36 TEMPORARY RESTRAINING ORDER AND FOR
37 ORDER TO SHOW CAUSE REGARDING
38 PRELIMINARY INJUNCTION -1
39 (2:16-cv-00771)

40
41 **GORDON & REES LLP**
42 701 5th Avenue, Suite 2100
43 Seattle, WA 98104
44 Telephone: (206) 695-5100
45 Facsimile: (206) 689-2822

1 3. Attached hereto as **Exhibit A** is a true and correct copy of Seattle City Light's
2 Request for Proposal 3404.

3 4. On May 24, 2016, at approximately 11:42 am, I had a teleconference with Jessica
4 Nadelman, an attorney for the City of Seattle to clarify the City of Seattle's self imposed
5 deadline of March 25, 2016 for filing a TRO with the Court in order to prevent the disclosure of
6 an unredacted version of Elster Solutions, LLC's Proposal to Defendants MuckRock Foundation,
7 Inc., Phil Mocek and other general members of the public pursuant to Defendant's Public Record
8 Request. During the conversation I informed Ms. Nadelman that Elster was going to file a
9 Motion for a Temporary Restraining Order and Preliminary Injunction in the United States
10 District Court for the Western District of Washington at Seattle on May 25, 2016.

11 5. On May 24, 2016, I emailed Ms. Nadelman to ask her if she would accept service on
12 behalf of the City of Seattle. She advised me to serve the Mayor's office. A true and correct
13 copy of this email exchange is attached hereto as **Exhibit B**.

14 6. On May 25, 2016, I provided Ms. Nadelman with a courtesy copy of Elster's moving
15 papers so that she was aware the Elster's Motion for Injunctive Relief was pending in this Court
16 and I instructed my office to formally serve the Mayor's Office with all pleadings.

17 7. On May 25, 2016, I emailed Defendant Phil Mocek and Defendant MuckRock
18 Foundation, Inc., the latter through its registered agent Michael Morisy, to notify them (i) that
19 Gordon & Rees LLP represents Elster in regard to this proceeding; (ii) that on this same date,
20 Elster intends to file an action in federal court, Washington's Western District, and to seek a
21 temporary restraining order to bar SCL from disclosing Elster's Proposal until such time that a
22 hearing can be held regarding a preliminary and/or permanent injunction. Attached to my e-
23 mails were copies of the Complaint For Injunctive and Declaratory Relief, Motion for
24 Temporary Restraining Order And Order To Show Cause Regarding Preliminary Injunction;

supporting Memorandum and Declarations, and Proposed Order. A true and correct copy of my email to Defendants Mocek and MuckRock is attached hereto as **Exhibit C**.

8. Attached hereto as **Exhibit D** is a true and correct copy of the Table of Contents to Elster's Proposal.

9. Attached hereto as **Exhibit E** is a true and correct copy of the email dated April 26, 2016 from SCL's Public Disclosure Officer, Stacy Irwin re: Third Party Notification."

10. Attached hereto as **Exhibit F** is a true and correct copy of the email transmittal dated May 4, 2016, and the accompanying letter of the same date from Elster/Honeywell to the City of Seattle.

11. Attached hereto as **Exhibit G** is a true and correct copy of the email dated May 4, 2016 from Stacy Irwin to Mary Self.

12. Attached hereto as **Exhibit H** is a true and correct copy of the email dated May 4, 2016 from Mary Self to Stacy Irwin.

13. Attached hereto as **Exhibit I** is a true and correct copy of the email dated May 11, 2016 from Stacy Irwin to Mary Self.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED at Seattle, Washington this 25th day of May, 2016.

/s/Allen W. Estes

Allen W. Estes, III WSBA #34526

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DECLARATION OF ALLEN W. ESTES, III IN
SUPPORT OF PLAINTIFF'S MOTION FOR
TEMPORARY RESTRAINING ORDER AND FOR
ORDER TO SHOW CAUSE REGARDING
PRELIMINARY INJUNCTION -3
(2:16-cv-00771)

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